

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 98-0298
Sales and Use Tax
For Tax Periods: 1994, 1995, and 1996

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ISSUES

I. Sales Tax Adjustments – Sales Tax Billed for Unitary Transactions:
Installation Charges.

Authority: IC 6-2.5-1-1(a); IC 6-2.5-1-2(b); IC 6-2.5-2-1; IC 6-2.5-4-1(b); 45 IAC 2.2-1-1(a).

Taxpayer protests the imposition of sales tax on that portion of taxpayer's invoices purportedly attributable to installation charges.

STATEMENT OF FACTS

Taxpayer is the sole proprietor of a business which manufactures and installs household and commercial cabinets. Taxpayer builds and installs cabinets primarily for customers in Indiana although some sales are made to customers located in Illinois.

I. Sales Tax Adjustments – Sales Tax Billed for Unitary Transactions:
Installation charges.

Taxpayer protests the assessment of the gross retail tax on that portion of taxpayer's invoices purportedly attributable to the cost of installing cabinets. Taxpayer maintains that its invoices properly distinguished between the taxable charges for the sale of its cabinets and the non-taxable charges for the installation of those cabinets. The audit disagreed and proposed an additional assessment on that portion of the taxpayer's invoices for which sales tax had not been collected or remitted. The audit determined that taxpayer's invoices represented a combined lump sum charge and should be interpreted and assessed as a unitary transaction.

Under IC 6-2.5-2-1, the state imposes a state gross retail (sales) tax on retail transactions made in Indiana. A retail transaction, the prerequisite to the imposition of the tax, is the transfer, in the ordinary course of business, of tangible personal property for

consideration. IC 6-2.5-4-1(b). Therefore, absent the transfer of tangible personal property, the transfer of services alone is not subject to the state gross retail tax.

However, the transfer of services is taxed if it is part of a retail “unitary transaction.” IC 6-2.5-1-2(b). A retail “unitary transaction” is one in which items of personal property and services are furnished under a single order or agreement and for which a total combined charge or price is calculated. IC 6-2.5-1-1(a). A unitary transaction includes all items of property and services for which a total combined selling price is computed irrespective of the fact that the cost of services, which would not otherwise be taxable, is included in the selling price. 45 IAC 2.2-1-1(a).

At the hearing, the taxpayer produced sample invoices demonstrating the manner in which the taxpayer billed his customers. A typical customer invoice stated the cost of the various items for which the customer was being charged. This list might include items such as the base cabinets, cabinet tops, or special hardware. The cost of each item was separately listed and then subtotaled. At this point, the taxpayer would make a separate notation (described by taxpayer as a “memo item”) stating that portion of the subtotal subject to tax and the applicable tax rate. After using those noted figures to calculate the amount of sales tax, taxpayer would add that amount to the previously determined subtotal in order to arrive at the final total owed by the customer. On the sample invoices the amount charged for sales tax was labeled as “tax” or “sales tax.” Although taxpayer’s invoices did not systematically differentiate between the cost of the finished cabinets and the installation charge, the total charged for the cabinets and the total charged for the installation can be determined precisely from the information given on each invoice.

The evidence presented by the taxpayer demonstrates that taxpayer’s invoices do not represent unitary transactions but represent transactions in which the exempt and taxable costs of the installation and cabinets are properly distinguished.

FINDING

Taxpayer’s protest is sustained.